

REMARKS

In the October 16, 2006 Office Action, Examiner Fischetti noted that claims 1-11 and 19-24 were pending in the application; claims 5-9, 23 and 24 were withdrawn; and claims 1-4, 10, 11 and 19-22 were rejected under 35 USC § 103(a) as unpatentable over "WO 96/29578 in view of Manchala" which presumably is U.S. Patent 6,405,178 to Manchala et al. (Reference A in the April 18, 2005 Office Action). Claims 1-4, 10, 11 and 19-22 remain in the case. The rejections are traversed below.

Rejections under 35 USC § 103(a)

In response to the rejection of claims 1-4, 10, 11 which was substantially unchanged from the rejection of claims 1-4, 10 and 11 in the November 4, 2005 Office Action, the independent claims have been amended to clarify the distinctions over WO 96/29578 and Manchala et al. based on what is described on page 12, line 22 to page 13, line 13 and page 21, line 10 to page 22, line 6 of the application.

As amended, claim 1 recites "monitoring a remainder quantity of merchandise for a purchaser, and transmitting an order signal requesting an order of the merchandise when the remainder quantity reaches a predetermined quantity" (claim 1, lines 2-4), while claim 19 recites "requesting an order of merchandise when a remainder quantity of the merchandise reaches a predetermined quantity" (claim 19, lines 3-5). In rejecting the claims, it was asserted that in WO 96/29578 "interface 104 receives ... signals resulting from comparing projected usage level to actual and a resultant signal which prompts a delivery" (Office Action, page 2, line 20-22) without citing where this is disclosed in WO 96/29578. In the next paragraph, page 17, lines 18-34 of WO 96/29578 were cited. In this portion of WO 96/29578, it is stated that "actual usage rates" (page 17, line 19) are used to "predict... storage tank product levels" (page 17, lines 18-19) and that "inventory management system 10 compares the projected usage level to the actual usage level ... to determine... whether a low product level will occur" (page 17, lines 26-30). While this is similar to what is recited in claims 1 and 19, it is not the same, because "a predetermined quantity" (claim 19, lines 4-5) is not used. Instead, "the projected usage level" is compared with the actual usage level.

Furthermore, claims 1 and 19 recite "calculating a period left until a remainder quantity of the merchandise will be exhausted based on purchase history including at least a previous purchase day on which the purchaser, specified by the order signal, purchased the merchandise" (claim 1, lines 7-10; claim 9, lines 6-8). In rejecting the claims, page 17, lines 18-34 of WO

96/29578 were cited as disclosing "calculating a period" as previously recited in claims 1 and 19. However, no suggestion has been found in this portion of WO 96/29578 or any other portion of WO 96/29578 or Manchala et al. that anything is calculated "based on ... a previous purchase day" as recited in claims 1 and 19. Merely being "closely tied to the supplier" (Office Action, page 3, line 17) is not sufficient to make such calculations obvious.

Furthermore, claims 1 and 19 recite

calculating a merchandise consumption amount per day based on the purchase history and the remainder quantity of the merchandise ... [and] calculating an order quantity of the merchandise based on the merchandise consumption amount, the period left until the remainder quantity of the merchandise will be exhausted, and the remainder quantity of the merchandise

(claim 1, lines 11-15; claim 19, lines 10-14). In rejecting claims 1 and 19, it was asserted that page 17, lines 18-34 of WO 96/29578 disclosed such calculations. However, the cited portion of WO 96/29578 only discloses predicting storage tank product levels "based on forecasted and actual usage rates" (page 17, line 19). WO 96/29578 does not specify that the rate is "a merchandise consumption amount per day" (e.g., claim 1, lines 11-12), or that this rate is calculated "based on the purchase history" (e.g., claim 1, line 12) which, as noted above, includes "at least a previous purchase day" (e.g., claim 1, lines 8-9).

Furthermore, WO 96/29578 only discloses that "inventory management system 10 determines whether a low product level will occur ... [and b]ased upon these evaluations, appropriate shifts (changes) are made to the delivery schedule and/or quantity" (page 17, lines 29-34). The details now recited in claims 1 and 19 regarding calculation of "an order quantity of the merchandise based on the merchandise consumption amount, the period left until the remainder quantity of the merchandise will be exhausted, and the remainder quantity of the merchandise" are not provided by WO 96/29578 and nothing has been cited or found in Manchala et al. that fills in the missing details. It is submitted that these details are not obvious from WO 96/29578 and Manchala et al.

For the above reasons, it is submitted that claims 1 and 19, as well as claims 2-4, 10, 11 and 20-22 which depend therefrom, patentably distinguish over WO 96/29578 and Manchala et al.

Request for Interview

According to the Patent Application Information Retrieval (PAIR) System, Examiner Fischetti who issued the October 16, 2006 Office Action is no longer responsible for this application. To expedite examination of this application, the new Examiner is respectfully

requested to contact the undersigned by telephone prior to issuing another Office Action that is not a Notice of Allowance, to discuss how the claims distinguish over the prior art and whether there are any issues regarding interpretation of the claims.

Summary

It is submitted that the references cited by the Examiner do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-4, 10, 11 and 19-22, as well as claims 5-9 and 23 in the unelected species, are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: April 16, 2007

By: /Richard A. Gollhofer/

Richard A. Gollhofer
Registration No. 31,106

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501